

# Call For Papers

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# Journal of Chiropractic Humanities

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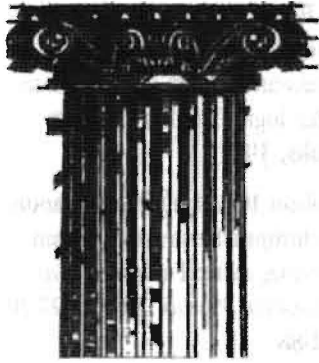
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# THE PEOPLE VS. D.D. PALMER, CALIFORNIA 1902; STATE OF IOWA VS. D.D. PALMER 1905.



## Introduction

We learn from the diaries of Thomas Jones Palmer, younger brother of Daniel David, used to write his biography: The brothers from early childhood had similar personalities; were avid readers on any and all social issues in their communities, and were never at a loss to express their feelings of superiority in these subjects; they were both headstrong, believing they were always right. Both also had insatiable appetites to be in the forefront in their communities; traits which we would call egocentric today.

In Daniel's case, he became a self-read and educated man in various areas of health care in the 1880's through 1912; he even wrote several books exclaiming his superior knowledge in these fields and others who came after him knew nothing. From Dr. Palmer's 1910 book *The Science, Art and Philosophy of Chiropractic*, also referred to as *The Chiropractor's Adjuster*, on page 819 he writes: "I am the Fountain Head of Chiropractic; it originated with me; it was my ingenious brain which discovered its first principle; I was its source; I gave it birth; to me all Chiropractors trace the Chiropractic lineage." And on page 887 he wrote a poem *The Medical Practice Act* wherein he writes his damnation to medicines and surgeries; inferring, healers such as he who use no medicines or surgeries should be exempt

from the effects of any enacted medical practice acts.

Herein, we shall see two episodes where the medical authorities via District Attorneys challenged Dr. Palmer on this very issue.

## Discussion

Whatever the reason D.D. had in August 1902, he and wife Villa departed Davenport to live in Pasadena, CA, leaving B.J. to run the Palmer School and Infirmary. This move would give D.D. more than he bargained for. He had to do something to create a positive cash flow, and being bold, he had large banner signs painted and hung over his front porch and front fence declaring "*Dr. Palmer - Chiropractor - Free Public Lectures*" plus an itemized list of diseases he could cure (1). On August 2nd, he went to the *Pasadena Daily News* and *Pasadena Evening Star* newspapers and had handbills printed, which read:

Dr. D.D. Palmer, the discoverer of Chiropractic, has located in Pasadena, 237 Marengo Ave., where he will be pleased to see those desiring to know more of this new science. Office hours from 1 to 6 p.m. Chiropractics (sic) finds that all illness, sickness, affections, indispositions, complaints, maladies or lack of ease, are caused by some bones being slightly displaced (1, 2).

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We have no evidence today concerning the response these handbills brought; however, the *Pasadena Evening Star* did report on September 19, 1902 the following story. Dr. Palmer made a house-call to nearby Sierra Madre, just east of Pasadena, to see a Mr. George Hayes who suffered from consumption. After convincing Mr. Hayes he could cure him, Dr. Palmer took Mr. Hayes into another room, locked the door, then placed Mr. Hayes prone on the floor as D.D. straddled him and proceeded to adjust his thoracic spine. The next day, when Dr. Palmer came to the Hayes residence, Mr. Hayes reported feeling better. As D.D. did not wish to be witnessed adjusting Mr. Hayes, on the second house call D.D. adjusted Mr. Hayes again, but this time he neglected to lock the door. This allowed Mrs. Hayes to peek in and see what she later described to the authorities as a terrible scene, Dr. Palmer was thumping and generally mal-treating her husband. The following day Mr. Hayes was confined to bed and on September 18th he died (3).

It was also reported in the *Evening Star* that Mr. Hayes had pawned his watch to pay for Dr. Palmer's treatments. Mrs. Hayes brought charges against Dr. Palmer; he was arrested and brought to city police court where charges of practicing medicine without a license were read against him. He pleaded not guilty and his attorney, Senator Simpson, filed a motion for a continuance until October 4th at 9:30 a.m., which Judge Klamroth granted (4).

On October 4, 1902, court reconvened with Judge Klamroth presiding. The prosecutor was General Johnson Jones, the district attorney of Los Angeles; and for the defense was Senator C.M. Simpson and Judge McKinley. General Jones read the indictment, "for practicing medicine without a license" against Dr. Palmer. Later, a jury was impaneled,

when suddenly General Jones arose and asked the Judge to cease all proceedings; this indictment had been wrongfully drawn upon the 1878 medical practice act, not the 1901 amended version. The Judge dismissed the charge against Dr. Palmer and he was released from police custody. It was announced that new charges would be filed within a few days, and then the prosecution would then proceed (5).

Interesting: Senator Simpson in the 1901 legislative session in Sacramento introduced Senate Bill 193 on January 14, 1901, proposing that a separate osteopathic act be created. The bill went before the Senate Health Committee. On February 8, the committee recommended *do not pass* for the bill and on the 25th Senator Simpson pulled the bill (6).

A recent new search of the *Pasadena Evening Star* from October 4 thru the 18th of 1902 found no article announcing a retrial of Dr. Palmer as promised by Judge Klamroth. Apparently the District Attorney dropped a second indictment (7).

The 1878 amended version of the medical practice act read in part:

Section 1. Every person in the State practicing medicine and surgery, in any of its departments shall possess the qualifications required by this act.

Section 6. Any itinerant vender who shall sell, or offer for sale, any drug, nostrum, ointment, or appliance of any kind . . . intended for the treatment of disease or injury, or any person who shall, by writing, or printing, or by any other method, publicly profess to cure or treat disease, injury, or deformity by any medicine, drug, or drugs, nostrum, *manipulation* (emphasis added), or other expedient,

shall pay a license of one hundred dollars a month. . . .

Section 7. Any person practicing medicine or surgery in the State, without first having procured a certificate to so practice . . . shall be guilty of a misdemeanor and shall be subject to penalties provided for herein . . . (8).

The 1901 amended version was provided by the enactment of Assembly Bill 284 by Mr. Hasson. It was enacted by both houses of the legislature and sent to the Governor, who refused to sign but did not veto; therefore, it became law on 27 April 1901. In parts read:

Section 5. Every person before practicing medicine or surgery . . . must have a certificate herein provided for . . .

Section 12. *Illegal Practice* - Any person practicing medicine or surgery in the State without having at the time a valid unrevoked certificate as provided . . . shall be deemed guilty of a misdemeanor, and upon conviction . . . shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than sixty days, nor more than one hundred and eighty days, or by both fine and imprisonment . . .

Section 16. *Definitions* - For those practicing medicine or surgery - 1. Those who profess to be, or hold themselves out as being, engaged as doctors, physicians or surgeons in the treatment of disease, injury or deformity of human beings . . . (9).

One can see from the above that in either version of the medical practice act, D.D. was guilty of illegal practice, but he apparently had difficulty under-

standing this. He felt that because he had discovered chiropractic and was using its principles in adjusting a spine he could and did cure diseases; therefore, he should be included within the health care community, regardless of the law and without question.

Back in Davenport in 1903, B.J. would face similar charges on April 16th, when he too was arrested for practicing medicine without a certificate by a Scott County Grand Jury warrant. B.J. pleaded not guilty and his attorney then petitioned for continuance after continuance, the last one on December 14, 1905. Then for unknown reasons, the case was dropped by the Scott County District Court (10, p. 97).

#### Iowa:

Apparently D.D. and Villa returned to Davenport sometime in early December 1904. While D.D. was away, B.J. moved the school and infirmary from the Ryan block building to a Victorian mansion at 828 Brady street, ideal for living quarters upstairs for B.J. and Mabel, with classrooms below. D.D. and Villa rented a smaller home nearby at 1518 Rock Island street; his new infirmary not far away at 105 West Second and South Putnam streets. This infirmary was large enough to have live-in rooms for room and board patients and separate adjusting rooms for the ambulatory patients (10, p. 98-99).

#### Legislative background for Iowa:

The 1880 General Assembly enacted the first Pharmacy act (11), wherein Section 10 is almost word for word with the California's medical practice act 1878, Section 6 (8). Reason: This wordage recommended by the American Medical Association in its struggle against Empiricism in both states, and others (12). Iowa also in 1880 did enact the first State Department of Health and Vital Statistics Act wherein physicians and midwives were mandated to record and report all births to

the local Circuit or District Courts, and physicians were authorized to sign all death certificates and report in the same way. Failure to do so would evoke a penalty (11).

In the 1886 session, the General Assembly enacted the first Medical Practice Act. Section 8 in part read "Any person shall be deemed as practicing medicine . . . who shall publicly profess to cure or heal, by any means whatsoever . . ." Section 9. "Any person who shall practice medicine . . . within this state without having complied with the provisions of this act . . . shall be guilty of a misdemeanor, and shall on conviction . . . be fined not less than fifty, nor more than one hundred dollars, or be imprisoned in the county jail not less than ten days, nor more than thirty days (13)." The penalty phase of the act would be amended from time to time, and in 1905 did read . . . "shall be fined three hundred dollars, nor more than five hundred dollars, and costs, and shall be committed to the county jail until such fine is paid (14)."

On March 9, 1905, one of D.D.'s live-in patients, Lucretia Lewis, age 18, from Oscaloosa, suffered from chronic consumption, suddenly died after five weeks of care. Her body was taken to the nearby Boise mortuary. Shortly thereafter, Dr. Palmer went to the mortuary and signed her death certificate; following, the mortician took the paperwork to City Clerk Ed Collins's home to get a release form signed to ship her body back to Oscaloosa for burial. When Collins noted who had signed her death certificate, he announced he could not sign the release form to ship her body, since Dr. Palmer was not authorized to sign death certificates. How did Collins know this? It seems prior to this event, another live-in patient of Dr. Palmer's died in his infirmary and he signed that death certificate and nothing hap-

pened. However, the city physician contacted Dr. J.F. Kennedy, Director State Department of Health in Des Moines, who reported that Dr. Palmer was not registered with his department and therefore was not authorized to sign death certificates (15).

Dr. Palmer's illegal act triggered the Scott County Coroner, Dr. Lambach, to call for an autopsy and inquest for the next evening at the mortuary, Dr. Lambach was assisted by city physicians Speers and E.S. Bowman, with several nurses from St. Luke's Hospital. The autopsy revealed "the lungs to be badly infected and wasted away." Dr. Lambach signed a new death certificate giving cause of death as *Pulmonary tuberculosis*, which closely resembled Dr. Palmer's diagnosis (16). City Clerk Collins signed the release form and her body was shipped to Oscaloosa for burial (17).

Next evening the Inquest was impaneled with three jurymen: E.J. Doughty, Alex W. Carroll, and Frank Bruner, with Dr. Lambach presiding. Attorney C.W. Jones took shorthand notation of all testimonies and remarks. Mrs. Lida Lewis testified first, telling of her daughter's chronic illness, fever, and chills, and that her Oscaloosa physicians could do nothing for her. Then, Attorney Willard Carver who had been cured of consumption by Dr. Palmer suggested she take her daughter to see Dr. Palmer in Davenport. She paid \$4 a week board and \$3 a week for a room, paying Dr. Palmer a total of \$75 for the past five weeks of care. She said Dr. Palmer never claimed to be a regular physician; she assumed he was and that she was not allowed to witness any of his treatments to Lucretia. Then, Bert Quinn testified his sister had severe locomotor ataxia and Dr. Palmer had cured her, and that he currently was taking adjustments from Dr. Palmer, and he's OK. Following, a current student of Dr. Palmer, J.J. Dar-



nell testified he had never seen a real human organ, only pictures in books. Finally, Dr. Palmer took the stand and word-sparks flew between he and Dr. Lambach. Dr. Palmer admitted he was not an allopath, eclectic, or osteopath, just a chiropractor. Then Dr. Lambach asked him, "What is chiropractic?", to which Palmer responded, "Now you are seeking from this 60 cent witness what my students pay me \$500 for." Sixty cents was the witness fee for Dr. Palmer, thus this remark. *The Davenport Democrat and Leader* reported all of this, and remarked of Dr. Palmer's response to Dr. Lambach's last question, "The jury was not assembled to learn Chiropractic (sic), but to determine Miss Lewis' cause of death" (16). Dr. Lambach asked that Dr. Speer read a letter from Dr. Kennedy of Des Moines, in which it was stated "Dr. Palmer was not registered with the State Board of Health and had no license to practice medicine in Iowa, therefore had no authority to sign death certificates." In conclusion, Dr. Lambach stated, "All the evidence produced at this hearing would be turned over to the Scott County Attorney, Albert W. Hamann, who was in attendance, for any future actions he may wish to pursue" (16).

Shortly thereafter, District Attorney Hamann convened the Scott County Grand Jury and presented all the evidence from the inquest of Lucretia Lewis. On October 7, 1905 by District Court records, "a true bill with minutes was taken before the grand jury and filed. A bench warrant was issued that same day for the arrest of D.D. Palmer from the indictment of practicing medicine without a license since December 1904 to date . . ." On October 9th D.D. was arrested and arraigned, and after hearing the charges against him pleaded not guilty. His attorney, Walter Peterson arranged for a bond to release Palmer from custody

and motioned for a continuance until October 14. On this date, Peterson asked for another continuance and the court set a trial date for March 26, 1906 (18, 19).

On page 9 of the March 26, 1906 *The Davenport Democrat and Leader* newspaper:

For Practice Without License, Interesting Trial Has Begun in District Court Law Has Been Raised in Justice Courts But This is First Trial in District Court (20).

The next day another article cites, "The case was under Judge A.P. Barker, of Clinton, is a test case before a jury. The law is said to apply more widely than the term "practicing medicine without a certificate would imply." . . . "Trial began this day in District Court at 2 o'clock, the attorneys were busy securing a jury. District Attorney Albert W. Hamann and assistant C.H. Murphy prosecuting, while W.A. Foster and Walter Peterson attorneys for the defense" (21).

Continuing, the article goes on with more of the case, "In court with a jury impaneled . . . first witness, County Recorder Charles Like, who testified "Dr. Palmer had never filed a certificate to practice medicine in his office, as the law requires." George Backus, a linotype operator and A.A. Skelley, printer testified, "They printed numerous copies of *The Chiropractor* for Dr. Palmer, who circulated them though the Palmer School." . . . "Miss Avis Fraser, former stenographer for the Drs. Palmer was about to testify when attorney Peterson objected, personal privilege here, which the judge denied; she would therefore testify. She went on to say she took the dictation for the copy of this publication." When the prosecution rested, the defense rested also; they did not present any witnesses for Dr. Palmer! The judge instructed

the jury, who adjourned to another room for deliberation. Shortly thereafter, they returned to court with a verdict, read by jury Foreman D.R. Boyston (21), "We the jury find the Defendant guilty as charged (18)."

"Dr. D.D. Palmer Goes To Jail, Refuses to Pay Fine and Will Serve 105 days in Bastille. Declares He Will Stick by Chiropractic to the End. Clashes with the Judge." (22).

At 10 o'clock on the 28th, court reconvened and Judge Barker rendered the punishment as prescribed by the medical practice act; Dr. Palmer would be fined \$350 plus court expenses. Dr. Palmer jumped to his feet and in a loud voice proclaimed his innocence and refused to pay the fine! Judge Barker admonished Dr. Palmer to be seated and be silent through these proceedings. The judge went on to explain that the jury had no say in the penalty and the judge had none; he had to abide by the law and Dr. Palmer would have to pay his fine. D.D. bolted to his feet again, in a loud voice shouted, "The law had been made for the benefit of the doctor's of medicine and was an infamous measure." With that, the judge ordered the bailiff to escort Dr. Palmer to jail for 105 days, or until he paid his fine (22).

On Sunday afternoon, April 2, 1905, reporters for the *Democrat and Leader* went to the county jail to talk to Dr. Palmer and see how he was faring with his incarceration. He remarked, "It wasn't too bad, gets easier each day, but does miss his family." He was still adamant about not paying his fine, that it was an injustice in his mind. "Since being in jail, friends have called my home offering to collect funds to pay my fine, but I refuse to let them, its a matter of principle." They reported Dr. Palmer cleans his own cell daily, gets along with the

other prisoners on his row quite well. In his 9 × 11 foot cell, he has a small table with a typewriter from which he writes *Jail Maxims* and sends out to the press (23).

By April 6th, playing the role of chiropractic-martyr, the press carried "'How To Be Happy In County Jail' Dr. D.D. Palmer Writes a New Line of Valuable Maxims" (24).

The final article in the *Democrat and Leader* appeared on Monday, April 23, 1906: "Dr. D.D. Palmer Pays His Fine. Discoverer of Chiropractic Released from Jail Saturday" (25).

This report tells that on April 21st Dr. Palmer paid his fine in full, \$359.50, likely funds from son B.J. and the school (26), then takes a pen in hand and writes his final protest, which is also filed with the court on that day. "Now comes D.D. Palmer and enters this bill in protest against the payment of his fine of three hundred and fifty dollars, plus court fees as imposed by the District Court Clerk of Scott County. This document is also not dated but filed with the court on the 21st and is recorded as such. Signed D.D. Palmer (18, 24). He was incarcerated 21 days in all.

Was it that D.D. still could not see the legal issues where the State of California and Iowa were coming from? After all, he had usurped the title Doctor and had no formal training in any institution of higher learning to earn such a degree. Did he feel because he liked being a healer and had cured people, he should not have been bothered by any enacted laws; that was for others, not him (27)? We learn from younger brother Thomas Jones Palmer, wherein T.J. relates in his autobiography, (28) "D.D. and I had similar personalities from early childhood, we were both headstrong, prolific readers and from that knew more than anyone else in our communities, we were al-

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***"Was it that D.D. still could not see the legal issues where the States of California and Iowa were coming from?"***

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ways right on any and all issue." Rather egocentric, we'd say today. I went to the Rosemount Cemetery in Medford, Oklahoma where brother T.J. is buried and viewed his headstone; under his name it reads "He Believed He Was Right." I think we can say the same for D.D., but we must give him credit for what he discovered, Chiropractic. We have used this science to benefit mankind as members within alternative medicine. Now its up to all of us to expand our role in health care, through education and research, to show our application.

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